

### **REMARKS**

The Office Action dated April 19, 2007 has been received and carefully noted. The following remarks are submitted as a full and complete response thereto. Claims 1-19 are currently pending in the application and are respectfully submitted for consideration.

The Office Action provisionally rejected claims 1-19 on the grounds of obviousness-type non-statutory double patenting over claims 1-19 of co-pending application no. 10/877,975. Applicants submit that this rejection is rendered moot for the following reasons.

Applicants submit herewith a Terminal Disclaimer under 37 C.F.R. §1.321(c). As noted in the Office Action, a non-statutory double patenting rejection may be overcome by a timely filed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) or (d). Therefore, Applicants submit that the enclosed Terminal Disclaimer renders the double patenting rejection as moot. As such, Applicants respectfully request that this rejection be withdrawn.

Claims 1-4, 7-14, and 17-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kumar (U.S. Patent Pub. No. 2004/0223553) in view of Robinson (U.S. Patent Pub. No. 2004/0263365). The rejection is respectfully traversed for at least the following reasons.

Applicants respectfully submit that Kumar does not constitute a valid prior art reference with respect to the present application. More specifically, Kumar cannot be cited as prior art against the present application because Kumar has a filing date of February 6, 2004, which is later than the January 22, 2004 filing date of the present application. Thus, Kumar cannot be properly cited as prior art, under §102(a), against the present application. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claims 5 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kumar (U.S. Patent Pub. No. 2004/0223553) in view of Robinson (U.S. Patent Pub. No. 2004/0263365). The Office Action took the position that, although Kumar and Robinson do not disclose 2<sup>nd</sup> order delta sigma modulation, such a limitation would have been well-known in the relevant art. The rejection is respectfully traversed for the following reasons.

As outlined above, Applicants respectfully submit that Kumar is not a valid prior art reference since it has a filing date which is later than the filing date of the present application. As such, Applicants submit that this rejection is also in error and should be withdrawn.

Claims 6 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kumar (U.S. Patent Pub. No. 2004/0223553) in view of Robinson (U.S. Patent Pub. No. 2004/0263365), and further in view of Chu (U.S. Patent No. 5,166,959). The rejection is respectfully traversed for the reasons which follow.

As discussed above, Kumar does not constitute a valid prior art reference with respect to the present application. Accordingly, Applicants respectfully request that this rejection be withdrawn.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Majid S. AlBassam  
Registration No. 54,749

**Customer No. 32294**  
SQUIRE, SANDERS & DEMPSEY LLP  
14<sup>TH</sup> Floor  
8000 Towers Crescent Drive  
Tysons Corner, Virginia 22182-2700  
Telephone: 703-720-7800  
Fax: 703-720-7802

MSA:jf

Enclosures: Terminal Disclaimer  
Petition for Extension of Time